

**CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS**

**In the matter of the Rental
Dwelling License held by
Randy Gritz & Terry Kramer for the
Premises at 2628 Dupont Avenue South,
in Minneapolis, Minnesota.**

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on January 30, 2007 in Room 319 of Minneapolis City Hall. Board Chair Brian Bushay presided. Other board members present included Clinton Blaiser, Daisy Barton, Steve Schachtman, Wayne Jensen and Paul Thomas Kjornes. Board member Fathia Warsame was not present. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Inspections Division. The owner of the licensed premises, Randy Gritz, was not present. Terry Kramer, the manager/contact agent of the licensed premises was present at the hearing and was not represented by legal counsel.

FINDINGS OF FACT

1. Randy Gritz and Terry Kramer hold a rental dwelling license (No. 505543) for the property located at 2628 Dupont Avenue South in the City of Minneapolis, Minnesota. Ms. Gritz is the owner of the property and Mr. Kramer is the manager/contact agent of the property per Minneapolis Code of Ordinances (M.C.O.) § 244.1840, Subds. 2 &3, which provide as follows:

(2) If the owner has appointed an agent authorized to accept service of process and to receive and give receipt for notices, the name, business or residence address, telephone number, and date of birth of such agent.

(3) Every applicant, whether an individual, partnership, or corporation, shall identify in the application, by name, residence or business street address, telephone number, and date of birth, a natural person who is actively involved in, and responsible for, the maintenance and management of the premises. Said natural person shall, if other than the owner, affix his or her notarized signature to the application, thereby accepting joint and several responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises...

The rental dwelling license provided to Ms. Gritz and Mr. Kramer indicates on its face that the property is zoned "R2B" and that the license therefore encompasses two (2) rental dwelling units at the subject property.

2. This matter was commenced by the Inspections Division seeking revocation of the rental dwelling license held by Ms. Gritz and Mr. Kramer for the referenced property under M.C.O. § 244.1910, *Licensing standards*. The Inspections Division seeks revocation based on the following two minimum licensing standards:

244.1910. Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license.

...

(2) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the zoning code.

(3) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the zoning code or the housing maintenance code.

...

3. Notice of Director's Determination of Noncompliance was mailed to Ms. Gritz and Mr. Kramer on July 12, 2006. The notices were mailed to the correct service addresses provided by each and were posted at the building and served upon the tenants of the property in accordance with the procedural requirements of M.C.O. § 244.1930:

244.1930. Director's determination of noncompliance; notice. (a) If the director of inspections determines that a building or dwelling unit fails to meet the

licensing standards set forth in Section 244.1910 ... he or she shall mail a notice to the owner or the owner's agent. The notice shall specify the reasons why the building or unit fails to meet the licensing standards in Section 224.1910 or Section 244.1920 and shall include a copy of the inspection report if applicable.

(b) If the rental dwelling fails to meet one or more of the standards set forth in Section 244.1910, the notice shall indicate that the license holder or applicant has ten (10) days to correct the defects, after which the city council will take action to deny, refuse to renew, revoke, or suspend the license or provisional license.

...

(d) Whenever a notice of noncompliance is issued under this section, the director of inspections shall also cause a notice to tenants to be prominently posted on the building. The notice shall indicate that a license proceeding has been commenced against the owner because the building has been found to be in violation of the housing maintenance code; that after a stated period of time allowed to bring the building into compliance, the city council may proceed to deny, revoke, or suspend the rental dwelling license for the building; that if the city council denies, revokes, or suspends the license, tenants may be required to vacate the building; that further information can be obtained from the City of Minneapolis Housing Services Office.

...

The notices alleged that the number of rental dwelling units at the property exceeded the maximum number allowed under the zoning code and that the rental dwelling units were illegally occupied. The notices provided Ms. Gritz and Mr. Kramer thirty (30) days to bring the licensed premises into compliance, until Friday, August 11, 2006.

5. Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was mailed to Ms. Gritz and Mr. Kramer on December 14, 2006. The notice indicated that the Inspections Division was seeking revocation of the referenced rental dwelling license on the grounds that the premises had not been brought into compliance with the previously-cited provisions requiring that the number of rental dwelling units not exceed the maximum number allowed under the zoning code and that the rental dwelling units not be illegally occupied.

6. On December 18, 2006 Mr. Kramer filed a due and proper appeal of the revocation recommendation.

7. The evidence adduced at the hearing in this matter, in the form of property records and testimony, established that the subject property is zoned as "R2B" in a two-family district. The Minneapolis Zoning Code, therefore, allows only single-family and two-family residences in an R2B-zoned district and specifically does not permit multiple family dwellings comprised of three or four dwelling units. *See M.C.O. § 546.30, Principal uses for the residence districts.* In order to legally, properly and effectively change the number of authorized dwelling units at the subject property, the owner would need to obtain a conditional use permit, nonconforming use certificate or other such appropriate zoning action and also would be required to submit to plan review and obtain required permits. The record is completely devoid of any such zoning action being undertaken at the subject property. Mr. Kramer, at hearing, did submit two pages from the property abstract for the property but the Board does not find that the submitted pages are in any respect relevant to the dwelling unit issues.

8. The property records submitted at the hearing indicate that at no juncture was the subject property, which is characterized repeatedly as a "duplex," ever legally converted to a triplex or greater-occupancy. A 1948 permit indicates that work was completed at the property to add "*2 dormers, 1 sleeping rm. in duplex.*" However, this record indicates that the property was and remained a duplex and that the addition of the bedrooms was simply an addition to the existing dwelling units and not an addition to the authorized number of dwelling units. Furthermore, there exists a 1994 record indicating that the property was previously cited as an illegal building for basement occupancy and attic occupancy. However, the fact that these orders were closed only indicates that the violations were abated at that particular juncture – which could have been accomplished by temporarily not allowing sleeping in the basement and by utilizing the attic space in connection with and as a part of one of the two authorized dwelling

units (specifically in conjunction with unit #2 which comprises the upper (2nd) floor of the top-and-bottom duplex).

9. The evidence adduced at the hearing in this matter, in the form of testimony from Minneapolis housing inspectors and concessions from Mr. Kramer, indicate that the subject property was being rented as multiple dwelling and/or rooming units in excess of the authorized two units and that the basement and attic were illegally occupied. Minneapolis Housing Inspectors Vu Tran and Vonnice Linnell conducted separate inspections of the subject property on July 11th and December 6th, 2006. Mr. Kramer admitted in response to questioning from the Board that he received rent from at least four different sources for the various units and rooms in the subject property. The configuration of the building and its rooms indicates that there were two tenants independently living in wholly separate, locked rooms in the attic (only accessible through a single back staircase adjacent to the locked and vacant second-floor unit). The tenants admitted such to the inspectors. The basement contained separate bath and kitchen facilities and there was evidence of someone living in the basement on both occasions. The basement had a full living room and available beds. Mr. Kramer admitted that a gentleman "caretaker" had lived off and on in the basement for years. There was no evidence presented by Mr. Kramer in the form of leases or testimony indicating anything other than the conclusion called for by the observations of the inspectors – that the basement and attics were separately occupied by multiple individuals and that the individuals were not part of the authorized units on either the first or second floors. See M.C.O. § 244.945, *Restricted attic use* (providing that the use of an attic in a residential zone is restricted to the use of the family occupying the first and/or second floor authorized dwellings of the residence as an extension or supplement of such unit).

10. The habitable rooms in the basement contained only small windows located near the ceiling which do not qualify as approved egress windows and therefore violate the provisions of M.C.O. §§ 244.410 & 244.850.

11. The habitable rooms located in the attic are not being used in conjunction with or by the tenants of the authorized dwelling unit on the second floor, and are in fact being utilized as independent rooming units. Therefore, the attic rooms are not being used in compliance with either the housing code or the zoning code and constitute illegal occupancy. *See* M.C.O. §§ 244.1940 & 244.1945.

CONCLUSIONS

1. The Inspections Division followed the appropriate procedural steps and provided the necessary notices and time to take corrective action as required under the Minneapolis Code of Ordinances with regard to its recommendation to revoke the rental dwelling license currently held by Randy Gritz and Terry Kramer for the residential duplex located at 2628 Dupont Avenue South in the City of Minneapolis.

2. The maximum dwelling unit, illegal occupancy and egress violations which form the basis of this action have the potential to severely and adversely affect public health and safety as well as neighborhood livability. Adequate protection of public health, safety and welfare therefore requires the establishment and enforcement of minimum rental housing and zoning standards. *See* M.C.O. §§ 244.30 & 520.30.

3. The referenced rental dwelling license held by Randy Gritz and Terry Kramer is subject to revocation under M.C.O. § 244.1910(2) and, additionally and alternatively, under § 244.1910(3), which provide for revocation of a rental dwelling license when the number of rental

dwelling units exceeds the maximum number allowed under the zoning code or when a dwelling unit is illegally occupied.

RECOMMENDATION

That the rental dwelling license held by owner Randy Gritz and manager/contact agent Terry Kramer for the premises at 2628 Dupont Avenue South in Minneapolis, Minnesota be revoked.

Brian Bushay
Chair,
Rental Dwelling License Board of Appeals

**CITY OF MINNEAPOLIS
RENTAL DWELLING LICENSE BOARD OF APPEALS**

**In the matter of the Rental
Dwelling License held by
Randy Gritz & Terry Kramer for the
Premises at 2628 Dupont Avenue South,
in Minneapolis, Minnesota.**

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for hearing before the Rental Dwelling License Board of Appeals at 1:30 p.m. on January 30, 2007 in Room 319 of Minneapolis City Hall. Board Chair Brian Bushay presided. Other board members present included Clinton Blaiser, Daisy Barton, Steve Schachtman, Wayne Jensen and Paul Thomas Kjornes. Board member Fathia Warsame was not present. Assistant City Attorney Joel Fussy was present as *ex officio* counsel to the board. Lee Wolf, Assistant City Attorney, represented the Inspections Division. The owner of the licensed premises, Randy Gritz, was not present. Terry Kramer, the manager/contact agent of the licensed premises was present at the hearing and was not represented by legal counsel.

FINDINGS OF FACT

1. Randy Gritz and Terry Kramer hold a rental dwelling license (No. 505543) for the property located at 2628 Dupont Avenue South in the City of Minneapolis, Minnesota. Ms. Gritz is the owner of the property and Mr. Kramer is the manager/contact agent of the property per Minneapolis Code of Ordinances (M.C.O.) § 244.1840, Subds. 2 &3, which provide as follows:

(2) If the owner has appointed an agent authorized to accept service of process and to receive and give receipt for notices, the name, business or residence address, telephone number, and date of birth of such agent.

(3) Every applicant, whether an individual, partnership, or corporation, shall identify in the application, by name, residence or business street address, telephone number, and date of birth, a natural person who is actively involved in, and responsible for, the maintenance and management of the premises. Said natural person shall, if other than the owner, affix his or her notarized signature to the application, thereby accepting joint and several responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises...

The rental dwelling license provided to Ms. Gritz and Mr. Kramer indicates on its face that the property is zoned "R2B" and that the license therefore encompasses two (2) rental dwelling units at the subject property.

2. This matter was commenced by the Inspections Division seeking revocation of the rental dwelling license held by Ms. Gritz and Mr. Kramer for the referenced property under M.C.O. § 244.1910, *Licensing standards*. The Inspections Division seeks revocation based on the following two minimum licensing standards:

244.1910. Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license.

...

(2) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the zoning code.

(3) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the zoning code or the housing maintenance code.

...

3. Notice of Director's Determination of Noncompliance was mailed to Ms. Gritz and Mr. Kramer on July 12, 2006. The notices were mailed to the correct service addresses provided by each and were posted at the building and served upon the tenants of the property in accordance with the procedural requirements of M.C.O. § 244.1930:

244.1930. Director's determination of noncompliance; notice. (a) If the director of inspections determines that a building or dwelling unit fails to meet the

licensing standards set forth in Section 244.1910 ... he or she shall mail a notice to the owner or the owner's agent. The notice shall specify the reasons why the building or unit fails to meet the licensing standards in Section 244.1910 or Section 244.1920 and shall include a copy of the inspection report if applicable.

(b) If the rental dwelling fails to meet one or more of the standards set forth in Section 244.1910, the notice shall indicate that the license holder or applicant has ten (10) days to correct the defects, after which the city council will take action to deny, refuse to renew, revoke, or suspend the license or provisional license.

...

(d) Whenever a notice of noncompliance is issued under this section, the director of inspections shall also cause a notice to tenants to be prominently posted on the building. The notice shall indicate that a license proceeding has been commenced against the owner because the building has been found to be in violation of the housing maintenance code; that after a stated period of time allowed to bring the building into compliance, the city council may proceed to deny, revoke, or suspend the rental dwelling license for the building; that if the city council denies, revokes, or suspends the license, tenants may be required to vacate the building; that further information can be obtained from the City of Minneapolis Housing Services Office.

...

The notices alleged that the number of rental dwelling units at the property exceeded the maximum number allowed under the zoning code and that the rental dwelling units were illegally occupied. The notices provided Ms. Gritz and Mr. Kramer thirty (30) days to bring the licensed premises into compliance, until Friday, August 11, 2006.

5. Notice of Revocation, Denial, Non-Renewal, or Suspension of Rental License or Provisional License was mailed to Ms. Gritz and Mr. Kramer on December 14, 2006. The notice indicated that the Inspections Division was seeking revocation of the referenced rental dwelling license on the grounds that the premises had not been brought into compliance with the previously-cited provisions requiring that the number of rental dwelling units not exceed the maximum number allowed under the zoning code and that the rental dwelling units not be illegally occupied.

6. On December 18, 2006 Mr. Kramer filed a due and proper appeal of the revocation recommendation.

7. The evidence adduced at the hearing in this matter, in the form of property records and testimony, established that the subject property is zoned as "R2B" in a two-family district. The Minneapolis Zoning Code, therefore, allows only single-family and two-family residences in an R2B-zoned district and specifically does not permit multiple family dwellings comprised of three or four dwelling units. *See M.C.O. § 546.30, Principal uses for the residence districts.* In order to legally, properly and effectively change the number of authorized dwelling units at the subject property, the owner would need to obtain a conditional use permit, nonconforming use certificate or other such appropriate zoning action and also would be required to submit to plan review and obtain required permits. The record is completely devoid of any such zoning action being undertaken at the subject property. Mr. Kramer, at hearing, did submit two pages from the property abstract for the property but the Board does not find that the submitted pages are in any respect relevant to the dwelling unit issues.

8. The property records submitted at the hearing indicate that at no juncture was the subject property, which is characterized repeatedly as a "duplex," ever legally converted to a triplex or greater-occupancy. A 1948 permit indicates that work was completed at the property to add "2 dormers, 1 sleeping rm. in duplex." However, this record indicates that the property was and remained a duplex and that the addition of the bedrooms was simply an addition to the existing dwelling units and not an addition to the authorized number of dwelling units. Furthermore, there exists a 1994 record indicating that the property was previously cited as an illegal building for basement occupancy and attic occupancy. However, the fact that these orders were closed only indicates that the violations were abated at that particular juncture – which could have been accomplished by temporarily not allowing sleeping in the basement and by utilizing the attic space in connection with and as a part of one of the two authorized dwelling

units (specifically in conjunction with unit #2 which comprises the upper (2nd) floor of the top-and-bottom duplex).

9. The evidence adduced at the hearing in this matter, in the form of testimony from Minneapolis housing inspectors and concessions from Mr. Kramer, indicate that the subject property was being rented as multiple dwelling and/or rooming units in excess of the authorized two units and that the basement and attic were illegally occupied. Minneapolis Housing Inspectors Vu Tran and Vonnice Linnell conducted separate inspections of the subject property on July 11th and December 6th, 2006. Mr. Kramer admitted in response to questioning from the Board that he received rent from at least four different sources for the various units and rooms in the subject property. The configuration of the building and its rooms indicates that there were two tenants independently living in wholly separate, locked rooms in the attic (only accessible through a single back staircase adjacent to the locked and vacant second-floor unit). The tenants admitted such to the inspectors. The basement contained separate bath and kitchen facilities and there was evidence of someone living in the basement on both occasions. The basement had a full living room and available beds. Mr. Kramer admitted that a gentleman "caretaker" had lived off and on in the basement for years. There was no evidence presented by Mr. Kramer in the form of leases or testimony indicating anything other than the conclusion called for by the observations of the inspectors – that the basement and attics were separately occupied by multiple individuals and that the individuals were not part of the authorized units on either the first or second floors. See M.C.O. § 244.945, *Restricted attic use* (providing that the use of an attic in a residential zone is restricted to the use of the family occupying the first and/or second floor authorized dwellings of the residence as an extension or supplement of such unit).

10. The habitable rooms in the basement contained only small windows located near the ceiling which do not qualify as approved egress windows and therefore violate the provisions of M.C.O. §§ 244.410 & 244.850.

11. The habitable rooms located in the attic are not being used in conjunction with or by the tenants of the authorized dwelling unit on the second floor, and are in fact being utilized as independent rooming units. Therefore, the attic rooms are not being used in compliance with either the housing code or the zoning code and constitute illegal occupancy. See M.C.O. §§ 244.1940 & 244.1945.

CONCLUSIONS

1. The Inspections Division followed the appropriate procedural steps and provided the necessary notices and time to take corrective action as required under the Minneapolis Code of Ordinances with regard to its recommendation to revoke the rental dwelling license currently held by Randy Gritz and Terry Kramer for the residential duplex located at 2628 Dupont Avenue South in the City of Minneapolis.

2. The maximum dwelling unit, illegal occupancy and egress violations which form the basis of this action have the potential to severely and adversely affect public health and safety as well as neighborhood livability. Adequate protection of public health, safety and welfare therefore requires the establishment and enforcement of minimum rental housing and zoning standards. See M.C.O. §§ 244.30 & 520.30.

3. The referenced rental dwelling license held by Randy Gritz and Terry Kramer is subject to revocation under M.C.O. § 244.1910(2) and, additionally and alternatively, under § 244.1910(3), which provide for revocation of a rental dwelling license when the number of rental

dwelling units exceeds the maximum number allowed under the zoning code or when a dwelling unit is illegally occupied.

RECOMMENDATION

That the rental dwelling license held by owner Randy Gritz and manager/contact agent Terry Kramer for the premises at 2628 Dupont Avenue South in Minneapolis, Minnesota be revoked.

Brian Bushay
Chair,
Rental Dwelling License Board of Appeals